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OFFICE OF PETITIONS

In re Heinrich et al.	:	DECISION ON REQUEST
Patent No. 7,595,154	:	FOR
Issue Date: September 29, 2009	:	RECONSIDERATION OF
Application No. 10/517,905	:	PATENT TERM ADJUSTMENT
Filed: December 10, 2004	:	AND
Attorney Docket No. 899-65892-02	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 24, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred twenty-seven (1127) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred twenty-seven (1127) days is **GRANTED to the extent indicated herein.**

The period of B delay in this case is 659 days, not 658 days as asserted by patentees. In an international application, the B period of delay is based on the failure of the Office to issue a patent within three years after the national stage commences under 35 U.S.C. 371(b) or (f). See 1.702(b). The national stage commenced in this application on December 10, 2004. Thus, period of B delay is 659 days, which is the number of days beginning on December 11, 2007, the day after the date three years after the date of commencement, and ending on September 29, 2009, the date the patent issued. See 1.703(b).


Patentees' assertion the patent term adjustment is 1127 days is based in part on an assertion the period of B delay is 658 days. The period of B delay is actually 659 days. As a result, the patent term adjustment is 1128, not 1127 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR § 1.136.

Pursuant to patentees' authorization, deposit account no. 02-4550 will be charged the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred twenty-eight (1128) days**.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.



Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,595,154 B2

DATED : September 29, 2009

DRAFT

INVENTOR(S) : Heinrich et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 535 days

Delete the phrase "by 535 days" and insert – by 1128 days--